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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,918	12/22/2000	Gopal Parupudi	MSI-695US	2766
22801	7590	12/19/2003	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			NGUYEN, DUC M	
			ART UNIT	PAPER NUMBER
			2685	

DATE MAILED: 12/19/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/746,918

Applicant(s)

Parupudi et al

Examiner

Duc M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Nov 19, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: Amended claim 48 raises new issue which would require further consideration and/or search.

3. ☐ Applicant's reply has overcome the following rejection(s): _____
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see the attached "Response to Arguments".
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____
- Claim(s) objected to: _____
- Claim(s) rejected: 2-27, 29-48, and 50-58
- Claim(s) withdrawn from consideration: _____
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

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Response to Arguments

1. Applicant's arguments filed 7/7/03 have been fully considered but they are not persuasive.

Initially, Applicant argues that the Office Action introduces a new ground of rejection for claims 4, 51-53 and 53 by relying on a new reference. Applicant's attention is directed to MPEP 706.07(a) which states that "if the examiner adds a reference in the next Office action after applicant's rebuttal, and the newly added reference is added only as directly corresponding evidence to support the prior common knowledge finding, and it does not result in a new issue or constitute a new ground of rejection, the Office Action may be made final".

Here, since the Nelson's reference is used for the claimed limitation of "a hierarchical traversable tree structure", which is the feature that is recited by the examiner as a prior common knowledge finding in the previous Non-final Office Action mailed on 4/9/03, and since Applicant rebutted the above limitation/feature in the response filed on 7/7/03 with respect to claims 51-53, hence, the Nelson's reference used in the final Office Action mailed on 9/18/03 is simply just to support the previous rejection regarding applicant's rebuttal. Therefore, the Nelson's reference used in the rejection of claims 4, 51-53 and 56 does not result in a new issue or constitute a new ground of rejection, and the Office Action may be made final according to MPEP 706.07(a).

As to applicant's arguments regarding the meaning or definition of the term "context information", it is noted that the "location information" is not the **only** "context information" or distinguishing the context from the behavior as argued by the Applicant. Here, according to the specification, page 17, lines 14-20, which is recited by Applicant in the response on page 25,

"It is to be understood that this constitutes but **one example** of a context in which the various embodiments discussed below can be employed. Other **contexts** can include, any information that can fit into a hierarchical including, **without limitation**, role/personnel in an

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organization, device categorizations, current activity, current environment, active devices and the like".

As highlighted in bold, the above paragraph does not imply neither the "location information" is the **only** "context information" nor distinguishing the context from the behavior as argued by the Applicant. Therefore, with a broadest reasonable interpretation, any information or commands such as "speaker volume", "mute", "alert" that changes the behavior of a cell phone would read on the "context information" as claimed. Here, Applicant should noted that the features upon which applicant relies (i.e., **location information**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As to claims 17, 24 regarding the limitation of "ascertain its location", Applicant's attention is directed to col. 10, line 27 - col. 12, line 1, wherein **Te-eni** discusses different methods for location calculation, and further mention that "any other sufficiently accurate location method can be utilized" in col. 12, line 1. Although **Te-eni** fails to disclose the step of ascertain its location from multiple location information, such step is known in the art as disclosed by **Kuwahara** (see Boolean operation result of the combination means in **col. 8, lines 1-28**). Here, since **Te-eni** does suggests that "any other sufficiently accurate location method can be utilized, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of **Kuwahara** to **Te-eni** for the mobile phone to use different forms of location information for ascertain its location, for improving location information accuracy.

As to claim 29, Applicant argues that **Te-eni** fails to tach or suggest transmitting information that is associated with a location type that has attributes that define a cellular phone behavior, Applicant's attention is directed to col. 13, line 22 - col. 14, line 9 and col. 21, line 1-4), it is clear that when a user is located within a hospital or concert hall, services are denied and

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a command such as “MS shut down” is transmitted to the mobile, such command message “MS shut down” is the information **associated** with the location type (i.e, hospital or concert) and the “MS shut down” is also the attribute of the location type as claimed.

As to claims 31, 36, 41, 42 regarding the limitation “information **pertaining** to one or more class types (hospital) associated with various attributes that define the behavior of cellular phone”, Applicant’s attention is directed to pages 190-201 in **Kovac**’s reference, wherein **Kovac** discloses a method for mobile access to context-aware service (see pp. 190-201), wherein based on location awareness information, the behavior of a mobile’s user’s preferences is modified (i.e, phone setting) depend on environments (hospital or theater) at such location (see col. 2 of page 190 on silent vibration in a concert), and user profile (see section 3.3 Customizable Application, page 192). Here, the environments such as hospital or theater would read on “class types” as claimed, the call alerting modes or phone settings would read on “attributes associated with the class types” as claimed.

As to claim 48, Applicant’s argument on page 36 argues that every embodiment taught by **Kuwahara** involves “call answer options” and relies on a Personal Number Server 41, the Examiner disagrees with the Applicant with such allegation. It is noted that Kuwahara discloses an embodiment in that the user of the mobile terminal can set a call incoming mode so that the selected mode is executed automatically depending on the location of the user (see col. 10, lines 36-40). Here, since no call diversion is activated in setting a call **incoming** mode, it is believe that neither “call answer options” nor Personal Number Server would be involved as alleged by the Applicant.

As to claim 50, regarding the limitation of “hierarchical structure”, Applicant’s attention is directed to Fig. 21 of **Kuwahara**’s reference, wherein area vector names (home, office) are hierarchical information of location informations (zones A and B). Since the use of hierarchical traversable tree structure is well known in the art of computer database, it would have been obvious to one of ordinary skill in the art to further modify **Kuwahara** for using a hierarchical

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traversable tree structure as claimed, in order to traverse effectively from one mode to another mode, for setting the phone to operate according to the instructed mode.

As to claim 51, 54 regarding the limitation of “hierarchical structure”, since the use of hierarchical traversable tree structure is well known in the art of computer database as disclosed by **Nelson** (see section 2.2.2 Hierarchical Location management), it would have been obvious to one of ordinary skill in the art to provide the above teaching of **Nelson** to **Te-eni** for using a hierarchical traversable tree structure as claimed, in order to traverse effectively from one mode to another mode, for setting the phone to operate according to the instructed mode.

As to claims 58, the same argument is applied for the same reason as set forth in claim 17 above regarding the limitation of “ascertain its location”.

For foregoing reasons, the examiner believes that the pending claims are not allowable over the cited prior art.

2. **Any response to this action should be mailed to:**

Box A.F.

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for formal communications intended for entry)

(for informal or draft communications, please label “PROPOSED” or “DRAFT”)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA, Sixth Floor (Receptionist).

Any inquiry concerning this communication or communications from the examiner should be directed to Duc M. Nguyen whose telephone number is (703) 306-4531, Monday-

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Thursday (9:00 AM - 5:00 PM). Or to Edward Uban (Supervisor) whose telephone number is (703) 305-4385.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Duc M. Nguyen

Dec 17, 2003

A handwritten signature in black ink, appearing to read 'Duc M. Nguyen', written over the typed name and date.